

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE AMERICAN BUSINESS)
FINANCIAL SERVICES, INC.)
NOTEHOLDERS LITIGATION) Master File No. 05-232
)

OPPOSITION TO SETTLEMENT/MOTION FOR
REPLACEMENT OF CLASS COUNSEL BASED ON FRAUD AND
MISREPRESENTATION TO THE COURT

COMES NOW, David Banach, through counsel, James C. Strouse, Strouse Legal Services, and states:

1. Strouse Legal Services represents David Banach in the above matter involving Berger & Montague and its efforts to obtain a fair payment in the settlement for the investors.

THE SETTLEMENT

2. David Banach is a resident of Columbia, Maryland and a holder of approximately \$75,000 in bonds, about \$45,000 of which are preferred bonds.

3. This settlement request, where the investors get 2.5% on their investment and the attorneys approximately 30% of the total of \$16 million plus expenses, is a mockery of a fair and equitable settlement and should be denied out of hand.

4. Berger & Montague has deliberately and intentionally over billed for its work and its expenses and misstated to this Honorable Court for

the purpose of fraud on the Court and the investors of American Business Financial Services, Inc.

5. From the description of activities in its billing records, the only efforts involving substantial billing hours concerns Berger & Montagues' effort to become Class Counsel. The actual settlement included no depositions, no investigations, no motions or briefs. Only the billings after the Court appointed Berger & Montague Class Counsel should be considered if the Court allows Class Counsel to continue. Class Counsel should deliver to the Court and the investors detailed billing and expense records

6. This effort to become Class Counsel, while successful, should not be paid for by the investors as Berger & Montague has failed to fairly represent the class of investors and the selection of Class Counsel gave no benefit to the investors. Rather, the firm has sought to minimize any payout to the class, eliminate all preferred class members, and request exorbitant, fraudulent billings from the Court. Mr. Banach requests an immediate audit of the billings by a firm that regularly audits large law firm billings.

AUDIT

7. The Court should request an immediate audit of the billings in this matter and, if at least 10% of the billings are found to be highly questionable, outright misstatements, or fraudulent, Mr. Banach asks this Honorable Court to replace the Class Counsel with Strouse Legal Services, a firm that guarantees to maximize payouts to investors and minimize payouts to Class Counsel. Strouse Legal Services guarantees to double the proposed

payment to investors, including preferred bond holders, and to request only 50% of actual, documented legal billings.

8. Mr. Banach finds it extremely unusual that Class Counsel has failed to charge criminally the Officers and Board of AFBI. Strouse Legal Services promises to charge each AFBI officer and member of the Board with egregious fraud involving a classic "Ponzi" scheme.

9. From a review of the documents, it appears that the bonds sold were a classic "Ponzi" scheme where the officers and directors bought few, if any, properties and used the bond sales to pay generous dividends to the bondholders.

10. The scheme failed in 2003 just when the sub-prime market was in very high demand by banks and investors around the world.

11. For a scheme to fail at that time is almost impossible because anyone possessing large holdings of sub-prime mortgages could have sold them easily to commercial and investment banks throughout the world.

BILLING STATEMENTS

12. Mr. Banach further requests that the billing statements of Berger & Montague be made public. In order to obtain these billing records, Mr. Banach's attorney had to promise to keep them private. These billing records should be made available to all investors without delay or condition. This is the least anyone could request of Class Counsel.

13. In conclusion, Mr. Banach demands that the proposed settlement be denied, the billing records be audited immediately by an outside firm whose business is to audit legal billings of large companies, and that, upon belief that the legal billings were fraudulent, misstatements, or

due mostly to Berger & Montague's efforts to be appointed Class Counsel, that Strouse Legal Services be appointed to replace Berger & Montague as Class Counsel.

14. Strouse Legal Services promises that all investors with over \$1,000 in bonds or related holdings be compensated as follows:

1. The minimum payment to investors would be \$500.00
2. All members would receive at least 5% on their

investment as a minimum.

3. Class counsel would be limited to 50% of actual legal billings. Strouse would not request an enhanced Lodestar billing payout.
(Class counsel has requested 1.5 times Lodestar)

15. A detailed memo will follow in ten (10) days.

Respectfully Submitted,

/s/

James C. Strouse, Esquire
Strouse Legal Services
5401 Twin Knolls Road, Suite 7
Columbia, Maryland 21045
410-730-7600 410-730-6994 fax

cc: Mr. David Banach
10978 Shadow Lane
Columbia, Maryland 21044

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, a copy of the foregoing Opposition to Settlement/Motion for Replacement of Class Counsel Based on Fraud and Misrepresentation to the Court was mailed first class, postage prepaid to:

Berger & Montague, P.C.
Attorneys at Law
1622 Locust Street
Philadelphia, PA. 19103-6305

 /s/
James C. Strouse Md. 09557

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ORDER

After consideration of the Opposition to Settlement/Motion for Replacement of Class Counsel Based on Fraud and Misrepresentation to the Court, it is hereby ORDERED:

- A. That billing records be audited by a qualified outside legal billing auditing firm.
- B. As a result of such audit, should at least 10% of the billings are found to be highly questionable, misstated or fraudulent, Strouse Legal Services shall replace Berger & Montague as Class Counsel.

JUDGE

END OF ORDER